

JUN 30 2005

**FROMMER LAWRENCE & HAUG LLP**

745 Fifth Avenue  
New York, New York 10151  
Telephone: (212) 588-0800  
Facsimile: (212) 588-0500  
E-mail: Firm@flhllaw.com

**FACSIMILE COVER LETTER**

**To:** Customer Service – Group Art Unit 1651  
**Firm:** U.S. Patent and Trademark Office –  
**Facsimile:** 703 872-9306  
**From:** Thomas J. Kowalski  
**Date:** June 29, 2005  
**Re:** U.S. Patent Application No. 09/484,886  
In Vivo Active Erythropoietin Produced In Insect Cells  
Our Ref. No.: 674506-2035.2  
**Number of Pages:** (including cover page) 3  
**cc:**

---

If you do not receive all pages or are unable to read the transmission, please call and ask for Sarah (Ext. 2064).

---

**CONFIDENTIALITY NOTICE**

The documents accompanying this transmission contain confidential information intended for a specific individual and purpose. The information is private, and is legally protected by law. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or the taking of any action in reliance on the contents of this facsimile is strictly prohibited.

Document2

RECEIVED  
CENTRAL FAX CENTER

002

JUN 30 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : SMITH et al.  
 Serial No. : 09/484,886  
 Filed : January 18, 2000  
 Title : APPARATUS AND METHODS OF PRODUCING  
           AND USING HIGH DENSITY CELLS AND  
           PRODUCTS THEREFROM  
 Group Art Unit : 1651  
 Examiner : Kailash C. Srivastava

745 Fifth Avenue, New York, NY 10151

FACSIMILE

I hereby certify that this paper is being facsimile transmitted to the  
 Patent and Trademark Office on the date shown below.

Angela M. Collison, Reg. No. 51,107

---

 Type or print name of  
 person signing certification

---

*Angela M. Collison*

Signature

---

June 29, 2005

---

Date of SignatureCOMMENTS ON REASONS FOR ALLOWANCE

Commissioner for Patents  
 P.O. Box 1450  
 Alexandria, VA 22313-1450

Sir:

This paper is being filed in response to the Notice of Allowance mailed on March 29, 2005 and is being submitted to provide comments on the Examiner's stated reasons for allowance. It is believed that no additional fees are due by entry of this paper. However, the Commissioner is authorized to charge any additionally required fee for the extension, or any other fee occasioned by this paper, or credit any overpayment in such fees, to Deposit Account No. 50-0320.

The Examiner's stated reasons for allowance included the statement that "none of the art cited supra alone or in combination teach or reasonably suggest to obtain a human erythropoietin

PATENT  
674506-2035.2

(EPO) expressed and produced in *Spodoptera frugipersa* Sf900+ cell line (ATCC: CRL 12579) transfected with a baculovirus construct containing the EPO gene, wherein said recombinant EPO has *in vivo* activity of 200,000 U/mg to 500,000 U/mg." Initially, the Amendment After Allowance submitted concurrently herewith serves to clarify the claims such that the claimed EPO has an *in vivo* activity, and an activity of at least 200,000 U/mg or of about 500,000 U/mg.

In addition, Applicants respectfully assert that the claimed EPO is not limited to EPO produced using the *Spodoptera frugipersa* Sf900+ cell line (ATCC: CRL 12579), but rather includes any EPO having an *in vivo* activity, and an activity of at least 200,000 U/mg or of about 500,000 U/mg, regardless of the specific cell line used in the production of the EPO. Applicants respectfully invite the Examiner to issue a supplemental Reasons for Allowance which reflects the statements herein.

Accordingly, consideration and entry of this paper, and issuance of a supplemental Reasons for Allowance are respectfully requested.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP  
Attorney for Applicants

By: Thomas J. Kowalski by Angela M. Collison  
Thomas J. Kowalski  
Reg. No. 32,147  
Angela M. Collison  
Reg. No. 51,107  
(212) 588-0800